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CJ.CJ.01572

Proposed Committee Substitute by the Committee on Criminal  
Justice

1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       119.071, F.S.; providing an exemption from public  
4       record requirements for an audio or video recording  
5       made by a law enforcement officer in the course of the  
6       officer performing his or her official duties and  
7       responsibilities, if the recording is taken within  
8       certain locations, shows a minor inside a school or on  
9       school property, or shows a child younger than 14  
10      years of age at any location; specifying how the  
11      exemption operates in relation to other exemptions  
12      that may apply to the recording; providing for future  
13      legislative review and repeal of the exemption under  
14      the Open Government Sunset Review Act; authorizing the  
15      law enforcement agency with custody over the recording  
16      to disclose the recording to another law enforcement  
17      agency in furtherance of that agency's official duties  
18      and responsibilities; specifying persons who may  
19      inspect the recording; amending ss. 92.56, 119.011,  
20      119.0714, 784.046, 794.024, and 794.03, F.S.;  
21      conforming cross-references; providing a statement of  
22      public necessity; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Paragraphs (g), (h), (i), (j), and (k) of  
27      subsection (2) of section 119.071, Florida Statutes, are



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28 redesignated as paragraphs (h), (i), (j), (k), and (l),  
29 respectively, and paragraph (g) is added to that subsection, to  
30 read:

31 119.071 General exemptions from inspection or copying of  
32 public records.—

33 (2) AGENCY INVESTIGATIONS.—

34 (g)1. An audio or video recording made by a law enforcement  
35 officer in the course of the officer performing his or her  
36 official duties and responsibilities is exempt from 119.07(1)  
37 and s. 24(a), Art. 1 of the State Constitution, if the  
38 recording:

39 a. Is taken within the interior of a private residence;

40 b. Is taken on the property of a facility that offers  
41 health care, mental health care, or social services;

42 c. Is taken at the scene of a medical emergency;

43 d. Is taken in a place where a person recorded or depicted  
44 in the recording has a reasonable expectation of privacy; or

45 e. Shows a child younger than 18 years of age inside a  
46 school, as defined in s. 1003.01, or on school property, as  
47 defined in s. 810.095, or shows a child younger than 14 years of  
48 age at any location.

49 2. If the audio or video recording or a portion of such  
50 recording is exempt or confidential and exempt pursuant to  
51 another exemption in this section, that exemption applies and  
52 determines under which circumstances, if any, the recording or a  
53 portion of the recording may be disclosed to the public.

54 3. This paragraph is subject to the Open Government Sunset  
55 Review Act in accordance with s. 119.15 and shall stand repealed  
56 on October 2, 2020, unless reviewed and saved from repeal



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57 through reenactment by the Legislature.

58 4. The law enforcement agency having custody of an audio or  
59 video recording described in subparagraph 1. may disclose the  
60 recording to another law enforcement agency in furtherance of  
61 that agency's official duties and responsibilities.

62 5.a. In accordance with s. 119.07, the following persons  
63 may inspect an audio or video recording described in  
64 subparagraph 1.:

65 (I.) A person recorded or depicted in the recording.

66 (II.) The agent or attorney of a person recorded or  
67 depicted in the recording, if inspection is authorized by that  
68 person.

69 (III.) A person not recorded or depicted in the recording,  
70 if inspection is authorized by all persons recorded or depicted  
71 in the recording.

72 b. This subparagraph does not apply to information in the  
73 recording that is exempt or confidential and exempt pursuant to  
74 another provision of this section.

75 Section 2. Paragraph (a) of subsection (1) of section  
76 92.56, Florida Statutes, is amended to read:

77 92.56 Judicial proceedings and court records involving  
78 sexual offenses and human trafficking.—

79 (1) (a) The confidential and exempt status of criminal  
80 intelligence information or criminal investigative information  
81 made confidential and exempt pursuant to s. 119.071(2)(i) ~~s.~~  
82 ~~119.071(2)(h)~~ must be maintained in court records pursuant to s.  
83 119.0714(1)(h) and in court proceedings, including testimony  
84 from witnesses.

85 Section 3. Paragraph (c) of subsection (3) of section



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86 119.011, Florida Statutes, is amended to read:

87 119.011 Definitions.—As used in this chapter, the term:

88 (3)

89 (c) "Criminal intelligence information" and "criminal  
90 investigative information" shall not include:

91 1. The time, date, location, and nature of a reported  
92 crime.

93 2. The name, sex, age, and address of a person arrested or  
94 of the victim of a crime except as provided in s. 119.071(2)(i)  
95 ~~s. 119.071(2)(h)~~.

96 3. The time, date, and location of the incident and of the  
97 arrest.

98 4. The crime charged.

99 5. Documents given or required by law or agency rule to be  
100 given to the person arrested, except as provided in s.  
101 119.071(2)(i) ~~s. 119.071(2)(h)~~, and, except that the court in a  
102 criminal case may order that certain information required by law  
103 or agency rule to be given to the person arrested be maintained  
104 in a confidential manner and exempt from the provisions of s.  
105 119.07(1) until released at trial if it is found that the  
106 release of such information would:

107 a. Be defamatory to the good name of a victim or witness or  
108 would jeopardize the safety of such victim or witness; and

109 b. Impair the ability of a state attorney to locate or  
110 prosecute a codefendant.

111 6. Informations and indictments except as provided in s.  
112 905.26.

113 Section 4. Paragraph (h) of subsection (1) of section  
114 119.0714, Florida Statutes, is amended to read:



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115 119.0714 Court files; court records; official records.-

116 (1) COURT FILES.-Nothing in this chapter shall be construed  
117 to exempt from s. 119.07(1) a public record that was made a part  
118 of a court file and that is not specifically closed by order of  
119 court, except:

120 (h) Criminal intelligence information or criminal  
121 investigative information that is confidential and exempt as  
122 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~.

123 Section 5. Paragraph (b) of subsection (4) of section  
124 784.046, Florida Statutes, is amended to read:

125 784.046 Action by victim of repeat violence, sexual  
126 violence, or dating violence for protective injunction; dating  
127 violence investigations, notice to victims, and reporting;  
128 pretrial release violations; public records exemption.-

129 (4)

130 (b) The sworn petition must be in substantially the  
131 following form:

132

133 PETITION FOR INJUNCTION FOR PROTECTION  
134 AGAINST REPEAT VIOLENCE, SEXUAL  
135 VIOLENCE, OR DATING VIOLENCE  
136

137 Before me, the undersigned authority, personally appeared  
138 Petitioner ...(Name)..., who has been sworn and says that the  
139 following statements are true:

140

141 1. Petitioner resides at ...(address)... (A petitioner for  
142 an injunction for protection against sexual violence may furnish  
143 an address to the court in a separate confidential filing if,



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144 for safety reasons, the petitioner requires the location of his  
145 or her current residence to be confidential pursuant to s.  
146 119.071(2)(k) ~~s. 119.071(2)(j)~~, Florida Statutes.)

147 2. Respondent resides at ...(address)....

148 3.a. Petitioner has suffered repeat violence as  
149 demonstrated by the fact that the respondent has:

150 ...(enumerate incidents of violence)...

151  
152 .....  
153 .....  
154 .....

155  
156 b. Petitioner has suffered sexual violence as demonstrated  
157 by the fact that the respondent has: ...(enumerate incident of  
158 violence and include incident report number from law enforcement  
159 agency or attach notice of inmate release.)...

160  
161 .....  
162 .....  
163 .....

164  
165 c. Petitioner is a victim of dating violence and has  
166 reasonable cause to believe that he or she is in imminent danger  
167 of becoming the victim of another act of dating violence or has  
168 reasonable cause to believe that he or she is in imminent danger  
169 of becoming a victim of dating violence, as demonstrated by the  
170 fact that the respondent has: ...(list the specific incident or  
171 incidents of violence and describe the length of time of the  
172 relationship, whether it has been in existence during the last 6



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173 months, the nature of the relationship of a romantic or intimate  
174 nature, the frequency and type of interaction, and any other  
175 facts that characterize the relationship.)...

176  
177 .....  
178 .....  
179 .....

180  
181 4. Petitioner genuinely fears repeat violence by the  
182 respondent.

183 5. Petitioner seeks: an immediate injunction against the  
184 respondent, enjoining him or her from committing any further  
185 acts of violence; an injunction enjoining the respondent from  
186 committing any further acts of violence; and an injunction  
187 providing any terms the court deems necessary for the protection  
188 of the petitioner and the petitioner's immediate family,  
189 including any injunctions or directives to law enforcement  
190 agencies.

191 Section 6. Subsection (1) of section 794.024, Florida  
192 Statutes, is amended to read:

193 794.024 Unlawful to disclose identifying information.—

194 (1) A public employee or officer who has access to the  
195 photograph, name, or address of a person who is alleged to be  
196 the victim of an offense described in this chapter, chapter 800,  
197 s. 827.03, s. 827.04, or s. 827.071 may not willfully and  
198 knowingly disclose it to a person who is not assisting in the  
199 investigation or prosecution of the alleged offense or to any  
200 person other than the defendant, the defendant's attorney, a  
201 person specified in an order entered by the court having



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202 jurisdiction of the alleged offense, or organizations authorized  
203 to receive such information made exempt by s. 119.071(2)(i) ~~s.~~  
204 ~~119.071(2)(h)~~, or to a rape crisis center or sexual assault  
205 counselor, as defined in s. 90.5035(1)(b), who will be offering  
206 services to the victim.

207 Section 7. Section 794.03, Florida Statutes, is amended to  
208 read:

209 794.03 Unlawful to publish or broadcast information  
210 identifying sexual offense victim.—No person shall print,  
211 publish, or broadcast, or cause or allow to be printed,  
212 published, or broadcast, in any instrument of mass communication  
213 the name, address, or other identifying fact or information of  
214 the victim of any sexual offense within this chapter, except as  
215 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~ or unless the  
216 court determines that such information is no longer confidential  
217 and exempt pursuant to s. 92.56. An offense under this section  
218 shall constitute a misdemeanor of the second degree, punishable  
219 as provided in s. 775.082 or s. 775.083.

220 Section 8. The Legislature finds that it is a public  
221 necessity that an audio or video recording made by a law  
222 enforcement officer in the course of the officer performing his  
223 or her official duties and responsibilities be made exempt from  
224 the public records requirements of s. 119.07(1) and s. 24(a),  
225 Article I of the State Constitution, if the recording: is taken  
226 within the interior of a private residence; is taken on the  
227 property of a facility that offers health care, mental health  
228 care, or social services; is taken at the scene of a medical  
229 emergency; is taken at a place where a person recorded or  
230 depicted in the recording has a reasonable expectation of





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231 privacy; or shows a child younger than 18 years of age inside a  
232 school or on school property or a child younger than 14 years of  
233 age at any location. The Legislature finds that information  
234 recorded by these devices in these circumstances is  
235 significantly more likely to include highly sensitive personal  
236 information regarding the persons recorded than in other  
237 circumstances. The Legislature finds that public disclosure of  
238 these recordings could have an undesirable, chilling effect:  
239 persons who know sensitive personal information about them is  
240 being or may be recorded may be unwilling to cooperate with law  
241 enforcement officers and make calls for the services of law  
242 enforcement officers. In the case of minors, information about  
243 those minors could jeopardize their safety. The Legislature  
244 finds that these interests or concerns not only necessitate the  
245 exemption of the recordings but outweigh any public benefit that  
246 may be derived from their disclosure.

247 Section 9. This act shall take effect July 1, 2015.